

Assembly Bill No. 2928

CHAPTER 752

An act to amend Section 19280 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2928, Spitzer. Collections: amounts imposed by a court.

Existing law provides, among other things, that delinquent restitution imposed by a superior court upon a person or entity for specified criminal offenses be referred by the county or the state to the Franchise Tax Board for collection in certain instances.

This bill would, unless the victim of the crime makes a specified notification to the contrary, authorize the Department of Corrections and Rehabilitation to refer a restitution order to the Franchise Tax Board, for purposes of those collection provisions, for any person subject to the restitution order who is or has been under the jurisdiction of the department, as provided.

The people of the State of California do enact as follows:

SECTION 1. Section 19280 of the Revenue and Taxation Code is amended to read:

19280. (a) (1) Fines, state or local penalties, forfeitures, restitution fines, restitution orders, or any other amounts imposed by a superior court of the State of California upon a person or any other entity that are due and payable in an amount totaling no less than one hundred dollars (\$100), in the aggregate, for criminal offenses, including all offenses involving a violation of the Vehicle Code, may, no sooner than 90 days after payment of that amount becomes delinquent, be referred by the superior court, the county, or the state to the Franchise Tax Board for collection under guidelines prescribed by the Franchise Tax Board. Unless the victim of the crime notifies the Department of Corrections and Rehabilitation to the contrary, the Department of Corrections and Rehabilitation may refer a restitution order to the Franchise Tax Board, in accordance with subparagraph (B) of paragraph (2), for any person subject to the restitution order who is or has been under the jurisdiction of the Department of Corrections and Rehabilitation.

(2) For purposes of this subdivision:

(A) The amounts referred by the superior court, the county, or state under this section may include an administrative fee and any amounts that a government entity may add to the court-imposed obligation as a result of the underlying offense, trial, or conviction. For purposes of this article, those amounts shall be deemed to be imposed by the court.

(B) Restitution orders may be referred to the Franchise Tax Board only by a government entity, as agreed upon by the Franchise Tax Board, provided that all of the following apply:

(i) The government entity has the authority to collect on behalf of the state or the victim.

(ii) The government entity shall be responsible for distributing the restitution order collections, as appropriate.

(iii) The government entity shall ensure, in making the referrals and distributions, that it coordinates with any other related collection activities that may occur by superior courts, counties, or other state agencies.

(iv) The government entity shall ensure compliance with laws relating to the reimbursement of the State Restitution Fund.

(C) The Franchise Tax Board shall establish criteria for referral, which shall include setting forth a minimum dollar amount subject to referral and collection.

(b) The Franchise Tax Board, in conjunction with the Judicial Council, shall seek whatever additional resources are needed to accept referrals from all 58 counties or superior courts.

(c) Upon written notice to the debtor from the Franchise Tax Board, any amount referred to the Franchise Tax Board under subdivision (a) and any interest thereon, including any interest on the amount referred under subdivision (a) that accrued prior to the date of referral, shall be treated as final and due and payable to the State of California, and shall be collected from the debtor by the Franchise Tax Board in any manner authorized under the law for collection of a delinquent personal income tax liability, including, but not limited to, issuance of an order and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding orders for taxes.

(d) (1) Part 10 (commencing with Section 17001), this part, Part 10.7 (commencing with Section 21001), and Part 11 (commencing with Section 23001) shall apply to amounts referred under this article in the same manner and with the same force and effect and to the full extent as if the language of those laws had been incorporated in full into this article, except to the extent that any provision is either inconsistent with this article or is not relevant to this article.

(2) Any information, information sources, or enforcement remedies and capabilities available to the court or the state referring to the amount due described in subdivision (a), shall be available to the Franchise Tax Board to be used in conjunction with, or independent of, the information, information sources, or remedies and capabilities available to the Franchise Tax Board for purposes of administering Part 10 (commencing with Section

17001), this part, Part 10.7 (commencing with Section 21001), or Part 11 (commencing with Section 23001).

(e) The activities required to implement and administer this part shall not interfere with the primary mission of the Franchise Tax Board to administer Part 10 (commencing with Section 17001) and Part 11 (commencing with Section 23001).

(f) For amounts referred for collection under subdivision (a), interest shall accrue at the greater of the rate applicable to the amount due being collected or the rate provided under Section 19521. When notice of the amount due includes interest and is mailed to the debtor and the amount is paid within 15 days after the date of notice, interest shall not be imposed for the period after the date of notice.

(g) In no event shall a collection under this article be construed as a payment of income taxes imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).